

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROHAN G. HERON,

Defendant.

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NO-06-CR-30068-WDS

MEMORANDUM AND ORDER

STIEHL, District Judge:

Before the Court is defendant's motion in limine (Doc.285) to which the government has filed a response (Doc. 287). The defendant seeks, initially, to preclude the government attorney and witnesses for the government from mentioning that the defendant had a previous trial in this matter; that there was a verdict in that trial and that there was an appeal of that verdict. The government has agreed, in its response, not to attempt to argue this or elicit testimony to this effect.

The defendant also seeks to preclude the government from introducing the statement that the defendant gave to DEA Special Agent Michael Rehg on May 11, 2006. The government has agreed that it will not attempt to introduce this statement as part of its case in chief, but may do so in rebuttal if the defendant opens the door to that evidence.

Finally, the defendant asserts that the testimony of the government's witness, Gigiman Hamilton, the former co-defendant in this case, may require the parties to, on cross-examination or direct examination, use the witness' testimony in the prior trial. If this becomes necessary during trial, the testimony may be simply referred to as the witness' " testimony in a prior proceeding in this case" without reference to the fact that the proceeding was the defendant's first trial on these

charges.

Accordingly, in light of the government's agreement not to bring these matters into its case in chief, the Court **DENIES** defendant's motion in limine (Doc. 258) as moot. The government is reminded to review this ruling, and its agreement with respect to this evidence, with all of its witnesses before they testify.

IT IS SO ORDERED.

DATE: 19 July, 2011

/s/ WILLIAM D. STIEHL
DISTRICT JUDGE